



# Briefing

## FURTHER ADVICE: CHILDREN'S ACCESS TO EXTRACURRICULAR ACTIVITIES

To: Hon Chris Hipkins  
Minister for COVID-19 Response

Date	24/02/2022	Priority	High
Deadline	25/02/2022	Briefing Number	DPMC-2021/22-1513

### Purpose

This briefing provides further advice on options to implement increased access for children to extracurricular activities regardless of vaccination status.

### Recommendations

1. **Note** that under the current COVID-19 Protection Framework (CPF) settings, there are extremely limited opportunities for unvaccinated children to take part in extracurricular activities which occur outside of school hours;
2. **Note** when the CPF was developed, vaccination rates for 12-17 year olds were relatively low compared to the rest of the population, with 70 percent of 12-19 year olds fully vaccinated, whereas now over 92 percent of 12-17 year olds have received two doses of the COVID-19 vaccine;
3. **Note** on Monday 21 February officials provided advice on options enabling children to better participate in school activities, and you directed officials to undertake further work to enable final decisions to be taken on option B (prohibiting vaccination passes for any inter-school or intra-school extracurricular activity) and how it could be implemented;
4. **Note** we seek further direction from you on the interpretation of option B;

5. **Indicate** which approach you would like to take:

5.1. Narrow: ONLY inter or intra-school activities, which can be held off-site, but all participants must be representing a school (i.e. school leagues, annual inter-school championships);

YES  NO

OR

5.2. Broad: all activities captured above PLUS any activity where the student is representing the school and participation has been organised by school, but non-school affiliated teams may be competing (club leagues) **[DPMC recommended]**;

YES  NO

6. **Note**, for both options, the effect of this change will be that children participating in an eligible extracurricular activity cannot be asked for the vaccine pass and will be treated by the activity organiser or venue operator as if they were vaccinated;

7. **Note**, both options carry ongoing risks and issues, with a continued limit on club sport and privately organised extracurricular activities, and the risk that some schools, activity organisers and venue operators may withdraw from these activities due to the perceived risk of unvaccinated children being able to take part;

8. **Note** that depending on which of the options above is preferred for non-curriculum activities, there is a risk that the approach to curriculum-related activities provided through Education Outside the Classroom (EOTC) will become more stringent than those that apply to non-curriculum related activities;

9. **Agree** that changes are made to EOTC to align the approach to curriculum and non-curriculum activities outside school so that all school-related activities are treated on the same basis;

YES  NO


10. **Note** previous advice on this issue included initial public health advice that indicated vaccine passes for children under 18 may no longer be justified, and as part of the CVC and CPF reviews we will work with the Office of the Director of Public Health to provide more detailed advice on this issue in the coming weeks;

11. s9(2)(h) [Redacted]

12. **Agree** to consult with the Prime Minister, Minister of Health, Minister for Sport and Recreation, and Minister of Justice on the content of this briefing; and


YES  NO

13. Agree that this briefing is proactively released, with any appropriate redaction where information would have been withheld under the Official Information Act 1982. **YES** NO



Kay Baxter  
Manager, Strategy & Policy

..24../.02./2022



Hon Chris Hipkins  
Minister for COVID-19 Response

24../.2../2022

**Contact for telephone discussion if required:**

Name	Position	Telephone	1st contact
Kay Baxter	Manager, Strategy & Policy	s9(2)(a)	✓
Nita Sullivan	Senior Policy Advisor, Strategy & Policy	s9(2)(a)	

**Minister's office comments:**

- Noted
- Seen
- Approved
- Needs change
- Withdrawn
- Not seen by Minister
- Overtaken by events
- Referred to

# FURTHER ADVICE: CHILDREN'S ACCESS TO EXTRACURRICULAR ACTIVITIES

## Executive Summary

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1. You have directed officials to provide advice on the implementation of a prohibition on the use of vaccine passes for any inter-school or intra-school extracurricular activity.
2. This briefing sets out two options for how widely to apply this prohibition:
  - a) A narrow option, which only includes inter-school or intra-school activities where all participants are representing a school; or
  - b) A broad option, which would capture any activity where the student is representing a school, even if the activity also includes non-school teams, such as community club competitions.
3. On balance, DPMC officials recommend proceeding with the broad interpretation. This change would represent an immediate step towards greater participation and access for all children, while officials consider the wider impact of vaccine passes on children in upcoming reviews of the use of vaccine passes and the CPF, in the context of updated public health advice.
4. Regardless of the option you choose, any member of a school team participating in the activity will be treated as if they are vaccinated for the purposes of determining gathering limits and other restrictions under the COVID-19 Protection Framework (CPF). Neither option will enable unvaccinated children to participate in club sport or other community-based activities if they do not access these activities as part of a school team or group.
5. As both options will give unvaccinated children greater access to extracurricular activities than curriculum-related education outside the classroom (EOTC), officials recommend that EOTC rules are also changed to align with any change to extracurricular activities.

## Background

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6. As part of the Government's response to COVID-19 in 2021, Cabinet agreed that children aged 12 to 15 years would be eligible for vaccination against COVID-19 [CAB-21-MIN-0322 refers], and the CPF was established, requiring vaccine passes for entry into some public places and activities.
7. As part of that work, Cabinet agreed that vaccine passes would apply to people aged 12 years and three months and older [CAB-21-MIN-0421] and you agreed to prohibit the use of vaccination requirements to preserve people's access to specified life preserving services, including schools and other specific education services [DPMC-2021/22-701].
8. On 17 February 2022, the Ministry of Education issued updated guidance to schools which clarified that inter-school sport, music lessons and school plays or performances that occur during class time are curriculum-related and do not require vaccine passes.

However, under the current settings the same activities occurring outside of school hours are not exempted from the gatherings and events requirements under the CPF.

9. In response to issues raised by the Education sector about unvaccinated students not being able to access extracurricular activities, you asked officials to look at options for ensuring that children are able to participate in school life regardless of their vaccination status [DPMC-2021/22-1478]. Based on that advice, you directed officials to undertake further work to enable final decisions to be taken on option B: prohibiting vaccine passes for any inter-school or intra-school extracurricular activity, and how it could be implemented.
10. If children are infected with Omicron, they have a substantially lower risk of getting seriously unwell than adults. While there remains the risk of transmission of Omicron, vaccination reduces the risk of young people getting infected. When the CPF was developed, vaccination rates for 12-17 year olds were relatively low compared to the rest of the population, with 86 percent of 12-17 year olds having received one dose and 70 percent fully vaccinated by 15 November. As of 23 February, over 95 percent of 12-17 year olds have received one dose, and 92 percent two doses. Officials note that vaccination rates for Māori have been consistently lower than the general population across all age bands, which has resulted in a disproportionate impact on their access to activities and services under the CPF.

### **Approach to implementing option B: prohibiting vaccine passes for any inter-school or intra-school extracurricular activity**

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11. In the briefing *COVID-19 Response: Options for ensuring children's access to extracurricular activities*, you directed officials to undertake further work to enable the implementation of option B: prohibiting vaccine passes for any inter-school or intra-school extracurricular activity.
12. The advice noted that this option would capture school-related extracurricular activities (either organised directly by the school, where the school facilitates participation, or where a school team/group/individual is participating or representing the school) whether on school grounds or not. However, there is some room for interpretation under this option. Officials seek further direction on your preferred approach to enable implementation, guidance and legal drafting.
13. We seek direction from you as to which interpretation of the parameters of option B you would like to implement, including exactly what unvaccinated children will and will not be allowed to take part in as part of their chosen extracurricular activities:

Interpretation	Risks and issues
<b>Narrow:</b> means ONLY inter or intra-school activities, can be held off-site but all participants must be representing a school (i.e. school leagues, Rockquest)	<ul style="list-style-type: none"><li>• Will allow more students to be active in their school community and facilitates more physical activity amongst 12-18 year olds</li><li>• However, would still cut out a significant number of extra-curricular activities organised and/or facilitated by a school:<ul style="list-style-type: none"><li>- E.g. Sports where a school team is competing in a club league, school jazz band or kapa haka group competes in community competition.</li></ul></li></ul>

	<ul style="list-style-type: none"> <li>• These equity issues often play out across the rural/urban divide, where schools located in small towns are less able to offer extracurricular activities within this narrow interpretation:             <ul style="list-style-type: none"> <li>- E.g. Area Schools and many kura kaupapa without other schools nearby to play against. Particularly Northland, Gisborne, Tairāwhiti, parts of Bay of Plenty, West Coast, Central Otago etc.</li> </ul> </li> </ul>
<p><b>Broad:</b> means all activities captured above PLUS any activity where the student is representing the school and participation includes non-school teams, such as community club competition [recommended]</p>	<ul style="list-style-type: none"> <li>• This approach would enable unvaccinated children to access a much broader range of activities through school-based opportunities</li> <li>• Will ensure that in some regions school sports or cultural competitions still can occur where it usually occurs against clubs</li> <li>• Community groups which currently use vaccine passes to manage risk will no longer be able to guarantee to participants that everyone present is vaccinated, and this may encourage community groups and club leagues to no longer offer their activities to school groups</li> <li>• This approach would add some operational complexity for providers who will need to manage and communicate two different sets of rules for teams associated with a school and those who are not.</li> </ul>

*Additional risks apply to both options*

14. Neither option enables unvaccinated children to participate in club sport (where they are not representing their school) or other privately organised extracurricular activities such as dance classes, community-based choirs or debating societies.
15. This will most likely impact more on children in small or rural schools, who may be more likely to rely on wider clubs and societies to access these activities. It also disproportionately impacts activities where participation is less likely to be organised through a school and competitors are not representing their school, such as dance, gymnastics, musical competitions or debating. Even for more traditional sports where school teams are widely available (such as rugby or netball), club participation is significant and will not be captured.
16. However, given the number of unvaccinated children relative to the general population of the age group, the number of children likely to be impacted is small. Potentially more significant is the impact on vaccinated participants, including vaccinated children, if extracurricular activities are no longer offered or students are withdrawn due to concern about COVID-19 spread. While public health advice may support unvaccinated children's participation, the public's own perception of the risk may not.
17. There is a relatively high degree of apprehension from parents, schools, activity organisers and venue operators about allowing unvaccinated children to participate in

these activities. A recent survey conducted by College Sport Auckland of 110 Auckland secondary school principals found that 84 percent were in favour of only vaccinated students taking part in inter school sport.

18. Prohibiting the use of vaccine passes may risk some activity organisers and venue operators choosing to no longer offer these activities for schoolchildren, or parents and schools withdrawing their students from the activities. If this is widespread, it could result in more children being unable to participate extracurricular activities than vaccination requirements, which currently affect only eight percent of 12-18 year olds.

#### *Recommended approach*

19. Public health advise that an approach that moves towards removing vaccination pass requirements for under 18 year olds is the most proportionate and equitable approach, given the high levels of vaccination coverage in 12-17 year olds and New Zealand's changing strategic approach to the Omicron outbreak. The Ministry of Health supports the broad interpretation of option B, which is most consistent with previous public health advice. The Ministry of Education also supports a broad interpretation of option B, primarily because of its effect of enabling more children to do more extracurricular activities.
20. However, Sport NZ supports the narrow interpretation, as while a broad interpretation provides for more physical activity options for students, it will create significant equity challenges for the delivery of wider sport and recreation and logistical challenges for event and tournament organisers.
21. On balance, DPMC officials recommend proceeding with the broad interpretation. This change would represent an immediate step towards greater participation and access for all children, while officials consider the wider impact of vaccine passes on children in upcoming reviews of the use of vaccine passes and the CPF, in the context of updated public health advice.

#### **Proposed approach to enable changes under the CPF**

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22. There are two barriers to children's access to these activities under the CPF:
  - a) *Low capacity limits at Red*: most extracurricular activity would be captured by the gathering rules, which are subject to 25-person capacity limits if vaccine passes are not used, or 100 if they are;
  - b) *The use of non-mandatory vaccine pass requirements by providers*: officials understand that in many cases vaccine passes are being required primarily as a risk mitigation tool even when not required under the CPF. For example, many councils have imposed vaccine pass requirements on their facilities even though their use does not affect the capacity limit. This suggests that a change to the capacity limit would not itself guarantee access to these activities for unvaccinated children.
23. The effect of the proposed change will be that children participating in an eligible extracurricular activity cannot be asked for the vaccine pass and will be treated by the activity organiser or venue operator as if they were vaccinated. This would mean that these activities would be able to access the higher capacity limits of gatherings that do require vaccine passes, as long as spectators and adult participants (coaches, referees etc) are also required to provide vaccine passes.

- 24. This would align with the way under 12s are currently treated by the COVID-19 Protection Framework in all settings. It is unlike the other vaccine pass prohibitions, which ensure access to a specific 'designated premise' such as a school or supermarket. Tying the prohibition to the individual child and the activity they are undertaking will enable us to capture a wide range of extracurricular activities that occur in diverse settings.
- 25. The Ministry of Education recommends that this apply to all students enrolled in a school, as opposed to tying the proposal to age (all those under the age of 18). This way, enrolment rather than age is the determining factor, and under 18 year olds not enrolled in a school will continue to be treated differently.

**Alignment of Education Outside the Classroom settings with these decisions**

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- 26. In January 2022, changes were made to address barriers for unvaccinated school students to participate in curriculum-related activities outside a designated education and care premise, specifically for Education Outside the Classroom (EOTC) programmes.
- 27. These changes enable EOTC programmes to occur without vaccine passes when they are providing a service to a school under certain conditions. Providers working with a registered school to deliver curriculum-related activities are required to provide that activity in a defined space (with the sole use of part or all of a setting/venue for the period the service is provided). Staff delivering the service are required to be vaccinated. Gathering limits under the CPF do not apply but guidance issued by the Ministry of Education on gathering sizes for school groups should be followed.
- 28. Providers are able to choose to provide EOTC under these conditions. However, many will choose not to do it, or will be unable to meet the requirements (e.g., cannot provide a separate space) which then either prevents the activity from going ahead or unvaccinated children from participating in the activity.
- 29. Both options for non-curriculum activities will mean the approach to curriculum-related activities provided through EOTC will become more stringent than those that apply to non-curriculum related activities (e.g. the requirement to partition off spaces for the exclusive use of EOTC). Officials therefore recommend that changes are made to align the approach to EOTC with the preferred approach to non-curriculum activities so that all school related activities (curriculum and non-curriculum) are treated on the same basis (e.g. a vaccine pass is not required and there is not a requirement to partition off spaces).

**Crown Law advice on NZBORA implications [legally privileged]**

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- 30. s9(2)(h)  
[Redacted text block]



32. s9(2)(h) [Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

### Communications

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37. High level communications will be led out of your office, which will agree to final content before publication. Following a public announcement, the Bulletin for School Leaders | He Pitopito Kōrero will be sent to all school principals and Board Chairs and on the Ministry website. Ministry of Education and Sport NZ will agree key messages and will be supported via updates to Unite Against COVID-19 channels.

38. More detailed guidance will be developed to support schools, parents and caregivers to understand what the changes are as soon as practicable, following an announcement of decisions. Detailed guidance will provide an opportunity to be clear about what the term

'extracurricular' means, as while this is well understood in education spaces it is not by venue operators and could cause confusion about what rules they need to apply.

## Next Steps

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39. As part of this work, officials recommend you consult with the Prime Minister, Minister of Health, the Minister for Sport and Recreation and Minister of Justice on the content of this briefing. Following consultation with your Ministerial colleagues and decisions on this briefing, officials will finalise drafting instructions with the Parliamentary Counsel Office to amend the COVID-19 Public Health Response (Protection Framework) Order 2021 to bring any changes into force.

### *PCO drafting timeframes*

40. Given work already underway on amendments to the Air Border Order and in preparation for Phase 3 of the Omicron response, as well as the level of complexity related to this amendment (the way it interacts with various aspects of the CPF and materially affects a number of agencies) an amendment of this nature would take two weeks. However, the Parliamentary Counsel Office will use their best endeavours to deliver it by the end of next week.
41. Officials suggest that public announcements could be made following decisions on this briefing, to signal the legal changes to follow.

## Consultation

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42. The Ministry of Education and Sport New Zealand contributed to the drafting of this advice. The following agencies were consulted on this briefing: Crown Law Office, Parliamentary Counsel Office, and the Ministry of Health. All agencies were supportive of enabling greater access to extracurricular activities for all school age individuals, regardless of vaccination status.